

Before the  
Federal Communications Commission  
Washington, D.C. 20554

FCC HNL SECTION  
Further, we find that each of the requests can be accom-  
modated and thus there is no need to comparatively con-  
sider the requested allotments at Van Wert and Richwood.  
Dec 22 11 54 AM '94

MM Docket No. 94-14

In the Matter of

Amendment of Section 73.202(b), RM-8426  
Table of Allotments, RM-8471  
FM Broadcast Stations.  
(Van Wert and Richwood, Ohio)<sup>1</sup>

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: December 13, 1994; Released: December 22, 1994

By the Chief, Allocations Branch:

1. At the request of Van Wert Radio ("petitioner"), the Commission has before it the *Notice of Proposed Rule Making*, 9 FCC Rcd 1031 (1994), proposing the allotment of Channel 282A to Van Wert, Ohio, as the community's second local FM broadcast service. Petitioner filed comments reiterating its intention to apply for the channel, if allotted. Comments and a counterproposal were also filed by Janice M. Scantland ("Scantland"), requesting the substitution of Channel 282B1 for Channel 282A at Richwood, Ohio, and the modification of her construction permit (BPH-920113MC) for a new FM station to specify the higher powered channel.<sup>2</sup> Van Wert and Richwood are located approximately 92 kilometers apart while the Commission's Rules specify a required minimum distance separation of 143 kilometers for co-channel Class A and Class B1 allotments. Therefore, the proposals are mutually exclusive.

2. Scantland states that Richwood is located in Union County and has a 1990 population of 2,186 persons and that her construction permit for a new FM station represents the community's sole local aural transmission service. Although Van Wert is larger in population, it receives local service from two aural stations, one FM and one AM, and thus she believes the public interest would be best served by substituting Channel 282B1 for Channel 282A at Richwood and the modification of her construction permit to specify the higher class channel. Further, Scantland states that she will apply for the channel, if allotted. In reply comments, Scantland submits that both petitioners can be accommodated by allotting Channel 230A in lieu of Channel 282A to Van Wert.

3. Based on the information before us, we believe that each of the petitioners has shown that the public interest would be served by a grant of their respective petitions.

**TECHNICAL SUMMARY**

4. Channel 230A can be allotted to Van Wert in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.0 kilometers (7.5 miles) east to avoid a short-spacing to Station WGLF-FM, Channel 231A, Roanoke, Indiana. Channel 282B1 can be allotted to Richwood with a site restriction of 20.8 kilometers (12.9 miles) west to avoid short-spacings to vacant but applied-for Channel 280A, Westerville, Ohio, Station WPAY-FM, Channel 281C, Portsmouth, Ohio, and Station WQKT, Channel 283B, Wooster, Ohio.<sup>3</sup> Since both communities are located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence in the allotments by the Canadian Government has been received. We recognize that Channel 230A at Van Wert is short-spaced to Station CKLW-FM, Channel 230C1, Windsor, Ontario, Canada. However, a staff study has confirmed that the overlap area of the interfering contour of the Van Wert station and the protected contour of Station CKLW-FM is located entirely on the U.S. side of the border. Therefore, the Canadian Government has concurred in the allotment of Channel 230A as a specially negotiated short-spaced allotment.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective February 6, 1995, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

City	Channel No.
Richwood, Ohio	282B1
Van Wert, Ohio	230A, 255B

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of Janice M. Scantland (BPH-920113MC) for a new station at Richwood, Ohio, IS MODIFIED to specify operation on Channel 282B1, in lieu of Channel 282A, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the permittee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

<sup>1</sup> The community of Richwood has been added to the caption.

<sup>2</sup> Public Notice of the filing of the counterproposal was given on May 11, 1994, Report No. 2010.

<sup>3</sup> The coordinates for Channel 230A at Van Wert are 40-50-54 North Latitude and 84-26-36 West Longitude. The coordinates for Channel 282B1 at Richwood are 40-24-41; 83-32-41.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Janice M. Scantland, permittee of a new station on Channel 282A at Richwood, Ohio, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

8. The window period for filing applications for Channel 230A at Van Wert, Ohio, will open on **February 6, 1995**, and close on **March 9, 1995**.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau